



4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

**[SATS No. MO-041-FOR; Docket ID: OSM-2013-0008;
S1D1SSS08011000SX066A00067F134S180110;
S2D2SSS08011000SX066A00033F13XS501520]**

Missouri Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Missouri regulatory program (Missouri program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Missouri proposes revisions to its Valid Existing Rights Rules and the Coal Alignment Rules. Missouri intends to revise its program to be no less effective

than the Federal regulations and to improve operational efficiency.

This document gives the times and locations that the Missouri program and this proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4:00 p.m., c.d.t., [Insert date 30 days after the date of publication in the FEDERAL REGISTER]. If requested, we will hold a public hearing on the amendment on [Insert date 25 days after date of publication in the FEDERAL REGISTER]. We will accept requests to speak at a hearing until 4:00 p.m., c.d.t. on [Insert date 15 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by SATS No. MO-041-FOR, by any of the following methods:

- Mail/Hand Delivery: Len Meier, Division Chief, Alton Field Division, Office of Surface Mining Reclamation and Enforcement, 501 Belle Street, Suite 216, Alton, IL 62002.
- Fax: (618) 463-6470

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Missouri program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM’s Alton Field Division or the full text of the program amendment is available for you to read at www.regulations.gov.

Len Meier, Division Chief

Alton Field Division

Office of Surface Mining Reclamation and Enforcement

501 Belle Street, Suite 216

Alton, IL 62002

Telephone: (618) 463-6460

E-mail: lmeier@osmre.gov

In addition, you may review a copy of the amendment during regular business hours at the following location:

Department of Natural Resources,

Land Reclamation Program

1738 East Elm Street

Jefferson City, Missouri 65101

Telephone: (573) 751-4041

FOR FURTHER INFORMATION CONTACT: Len Meier, Division Chief, Alton Field Division, Office of Surface Mining Reclamation and Enforcement, 501 Belle Street, Suite 216, Alton, IL 62002 Telephone: (618) 463-6460. E-mail: lmeier@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Missouri Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

I. Background on the Missouri Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, “. . . State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act . . .; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.” See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Missouri program on November 21, 1980. You can find background information on the Missouri program, including the Secretary's findings, the disposition of comments, and conditions of approval, in the November 21, 1980, Federal Register (45 FR 77027). You can also find later actions concerning the Missouri program and program amendments at 30 CFR 925.10, 925.12, 925.15, and 925.16.

II. Description of the Proposed Amendment

By letter dated August 13, 2013 (Administrative Record No. MO-678), Missouri sent us an amendment to its program under SMCRA (30 U.S.C. 1201 et seq.). Missouri submitted the proposed amendment in response to a January 31, 2008, letter (Administrative Record No. MO-669) that OSM sent to Missouri in accordance with 30 CFR 732.17(c). Below is a summary of Missouri's proposed changes. The full text of the

program amendment is available for you to read at the locations listed above under **ADDRESSES** or at www.regulations.gov.

Missouri proposes to make changes to its Code of State Regulations at Title 10, Division 40 (10 CSR 40) in the following chapters:

A. For Valid Existing Rights: Chapter 5.010 and 5.020

Missouri proposes to add clarifying language and delete verbiage no longer required. These changes are editorial and administrative in nature, correcting references and grammatical errors.

B. For Coal Alignment Rules: Chapters 3, 6, 7, and 8

Missouri proposes to change terms, add clarifying language, make grammar changes, and correct reference errors. The items below list the affected rule sections and proposed changes.

1. 10 CSR 40-3.040 - Requirements for Protection of the Hydrologic Balance.

Changes the word “pond” to “structure” in several places of section (6) and deletes meaningless language at the end of section (10).

2. 10 CSR 40-3.060 - Requirements for the Disposal of Excess Spoil. Clarifies who will inspect fills constructed of excess spoil and who will provide follow up reports on the fill.
3. 10 CSR 40-3.170 - Signs and Markers for Underground Operations. Directs the reader to the proper parts of other rules mentioned with respect to buffer zones.
4. 10 CSR 40-3.180 - Casing and Sealing of Exposed Underground Openings. Specifies compliance with other laws that address underground openings and wells, and directs the reader to the proper portions of another rule.
5. 10 CSR 40-3.200 - Requirements for Protection of the Hydrologic Balance for Underground Operations. Changes the word “pond” to “structure” in several places, changes the name of the “Soil Conservation Service” to the new name of “Natural Resources Conservation Service” and directs the reader to the proper parts of other rules.
6. 10 CSR 40-3.210 - Requirements for the Use of Explosives for Underground Operations. Clarifies what structures are protected from the effects of blasting in underground coal mining operations, sets forth the requirements for the use of explosives pursuant to 444.855, RSMo and directs the reader to the proper portion of another section of this rule.

7. 10 CSR 40-3.220 - Disposal of Underground Development Waste and Excess Spoil. Clarifies who will inspect fills constructed of excess spoil and who will provide follow up reports on the fill for underground mines.
8. 10 CSR 40-3.230 - Requirements for the Disposal of Coal Processing Waste for Underground Operations. Clarifies where coal processing waste from underground mining operations is to be disposed of and directs the reader to the correct part in another rule.
9. 10 CSR 40-3.240 Air Resource Protection. Clarifies language in section (1) for underground coal mining.
10. 10 CSR 40-3.260 - Requirements for Backfilling and Grading for Underground Operations. Removes existing language and adds clarifying language that addresses the stabilization of rills and gullies associated with underground coal mining operations.
11. 10 CSR 40-3.300 - Postmining Land Use Requirements for Underground Operations. Corrects a rule citation for the reader.
12. 10 CSR 40-6.020 - General Requirements for Coal Exploration, Permits.

Addresses permits for coal exploration activities upon lands designated as unsuitable for surface coal mining.

13. 10 CSR 40-6.030 - Surface Mining Permit Applications--Minimum Requirements for Legal, Financial, Compliance and Related Information. Defines requirements for mining within 100 feet of a public road as stated in another rule and directs the reader to the proper part of that rule.
14. 10 CSR 40-6.040 Surface Mining Permit Applications - Minimum Requirements for Information on Environmental Resources. Changes the name of the “Soil Conservation Service” to the correct name of the “Natural Resources Conservation Service.”
15. 10 CSR 40-6.050 - Surface Mining Permit Application--Minimum Requirements for Reclamation and Operations Plan. Directs the reader to the correct citations of another rule.
16. 10 CSR 40-6.060 - Requirements for Permits for Special Categories of Surface Coal Mining and Reclamation Operations. Changes the name of the “Soil Conservation Service” to “Natural Resources Conservation Service” and the street address of the Land Reclamation Program and also directs the reader to the proper reference of a subsection of this rule.

17. 10 CSR 40-6.070 - Review, Public Participation and Approval of Permit Applications and Permit Terms and Conditions. Clarifies the information necessary to approve mine related activities within 100 feet of the outside right-of-way of a public road or to relocate the road and directs the reader to the correct subsections in another rule.
18. 10 CSR 40-6.100 - Underground Mining Permit Applications - Minimum Requirements for Legal, Financial, Compliance and Related Information. Adds language in section (1) to be consistent with other sections of the rule.
19. 10 CSR 40-6.110 - Underground Mining Permit Applications - Minimum Requirements for Information on Environmental Resources. Changes “Soil Conservation Service” to “Natural Resources Conservation Service” and directs the reader to the correct subsection of another rule.
20. 10 CSR 40-6.120 - Underground Mining Permit Applications - Minimum Requirements for Reclamation and Operations Plan. Changes the word “description” to the words “supplemental information,” and directs the reader to the correct subsection of a rule in section (8) and directs the reader to the correct subsection of a rule and changes the phrase “underground mining activities” to “surface coal mining operations” in section (9).

21. 10 CSR 40-7.050 - Requirements, Conditions and Terms of Liability Insurance.

Improves grammar and changes “commission” to “director.”

22. 10 CSR 40-8.010 - Definitions. Adds a definition of water supply replacement and also adds a definition for “E” Horizon soil. Numbering of definitions is also changed.

23. 10 CSR 40-8.020 - Exemption for Coal Extraction Incident to Government

Financed Highway or Other Construction. Clarifies the term “government financed construction.

24. 10 CSR 40-8.070 - Applicability and General Requirements. Changes the date(s)

for annual reporting purposes for coal mines operating under the 16 2/3 per cent exemption rule.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Electronic or Written Comments

If you submit written or electronic comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for your recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment - including your personal identifying information - may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on [Insert date 15 days after date of publication in the FEDERAL REGISTER]. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER**

INFORMATION CONTACT. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866 - Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the Federal Register indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 925

Intergovernmental relations, Surface mining, Underground mining.

Ervin J. Barchenger, Regional Director
Mid-Continent Region

August 23, 2013

Date

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